

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARIA T. ARRIGONI, et al.,
Plaintiffs,

v.

ORDER
02-CV-571A

UNITED STATES OF AMERICA,

Defendant.

The above-referenced case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1)(B). On October 24, 2005, Magistrate Judge Foschio filed a Report and Recommendation, recommending that defendant's motion to dismiss should be denied, and that defendant's alternative motion for summary judgment should be granted.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, defendant's motion to dismiss is denied, and defendant's alternative motion for summary judgment is granted. The Clerk of Court is directed to take all steps necessary to close this case.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: January 13 , 2006